REMARKS

Claims 1-9 and 12-17 remain in this application with claim 1 being in independent form. Claims 10 and 11 have been cancelled.

Claims 1-3, 5, and 7-11 stand rejected under 35 U.S.C. §102(e) as being anticipated by Wallstedt et al. (U.S. Patent 6,330,450). The Examiner contends that Wallstedt discloses a method of determining proximity of a user having a first electronic device to a second electronic device for allowing the user access to the second electronic device.

Applicant respectfully traverses the §102(e) rejection. To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See MPEP §2131. Applicant has amended claim 1 to clarify that data stored within the second electronic device is partitioned into data blocks and that the data blocks are transmitted at different frequencies to establish communication between the first and the second electronic device.

Wallstedt discloses a system and method for minimizing effects of internal and external transmitter noise to improve control decisions that are based on signal strength. For example, referring to Figure 1, two electronic devices 1, 2 are transmitting a signal at a certain frequency F1, F2 to be detected by a base station 5. The transmitter for each of the electronic devices 1, 2, in addition to sending the signal, produces noise at other frequencies as is known in the art. See Col. 1, lines 48-52. The base station 5 measures the signal strength of the noise that is produced and then takes corrective actions if the signal strength of the noise is above the signal strength of the signal. This corrective action includes ignoring the signal strength on the affected frequencies or shutting down the transmitter altogether. Wallstedt is directed towards preventing noise transmitted by the electronic device 1 at the frequency F2 from interfering with the signal transmitted by the electronic device 2 at the frequency F2. The base station 5 may measure a stronger signal strength at F2 because of the noise from electronic device 1 and the signal from

electronic device 2, which may result in improper operation of the system. See Col. 3, lines 5-16.

The subject invention is directed toward transmitting data stored within a second electronic device that is partitioned, such that the entire packet of data is divided into data blocks. The data blocks are transmitted at different frequencies to create a secure transmission. The signal strength for each of the frequencies is measured for the transmittance of the entire data. Based upon the measured signal strength from the first electronic device, the second electronic is enabled or disabled. When the signal strength drops below a predetermined threshold, the second electronic device is disabled.

Wallstedt does not disclose enabling a second electronic device in response to the measured signal strength being above a predetermined threshold. On the contrary, Wallstedt disables the transmitter or ignores the signal strength when the measured signal strength, i.e., noise signal strength, is measured above a predetermined level. See Col. 3, lines 43-56. Further, Wallstedt does not disclose a first and second electronic device transmitting signals between each other for establishing communication therebetween. Wallstedt is directed toward a first electronic device 1 maintaining contact with a receiver, such as a base station 5 of cellular network, while a second electronic device 2 also maintains contact with the base station 5. Noise that is transmitted from the two electronic devices 1, 2 creates interference at the other frequencies. This additional noise causes the system to operate improperly. These two devices do not interact with one another and do not establish communication between the first electronic device and the second electronic device. Therefore, Wallstedt does not disclose each and every limitation of the claimed invention.

Further, the Examiner contends that the electronic device 1 detects a plurality of signals at different frequencies. However, the electronic device 1, as disclosed in Wallstedt, only transmits the signal to the base station 5 at the frequency F1. The electronic device 1 is not detecting the signal, but it is the base station 5 that detects the signals and measures the signal strength. The Examiner also contends that an overall signal strength is determined based upon the predetermined number of measured signal strengths. Wallstedt only discloses measuring noise on the other frequencies and transmitting the signal at the single frequency F1. Wallstedt does not disclose

partitioning the data, transmitting the data over a plurality of frequencies, measuring the signal strength at these frequencies, and then determining to enable or disable the second electronic device based upon the overall measured signal strength.

Therefore, Wallstedt does not disclose each and every limitation of the claimed invention. Applicant believes the 35 U.S.C. §102(e) rejection is overcome and claims 1-3, 5, and 7-11 are allowable.

Claims 6 and 12-17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wallstedt et al. (U.S. Patent 6,330,450) in view of Nicholson (U.S. Patent 6,445,297). Wallstedt et al. and Nicholson do not teach, suggest, or disclose such a combination set forth in claims 6 and 12-17. Claims 6 and 12-17 depend, directly or indirectly, from now allowable claim 1 and these claims are also deemed allowable. All of the objections and rejections regarding formal matters have been addressed by amendment. No new matter has been introduced in any of the amendments.

Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. Applicant believes that no fees are due, however, if any become required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789. Further and favorable reconsideration of the outstanding Office Action is hereby requested.

Respectfully submitted

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CERTIFICATE OF MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to **Mail Stop Non-Fee Amendment, Commissioner for Patents,** P.O. Box 1450, Alexandria, Virginia 22313-1450 on July 17th, 2003.

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